

**BEFORE THE SUPREME COURT COMMITTEE ON PROFESSIONAL CONDUCT
PANEL A**

IN RE: **ROBERT F. MOREHEAD**
Arkansas Bar ID # 70050
CPC Docket No. 2009-063

FILED

NOV 20 2009

**LESLIE W. STEEN
CLERK**

CONSENT FINDINGS & ORDER

The formal charges of misconduct upon which this Consent Order is premised, involving respondent attorney Robert F. Morehead of Pine Bluff, Arkansas, arose from information brought to the attention of the Committee on Professional Conduct by Gary and Norene Gerler. After Mr. Morehead's receipt of the formal complaint, he entered into discussion with the Executive Director which has resulted in an agreement to discipline by consent pursuant to Section 20.B of the Arkansas Supreme Court Procedures Regulating Professional Conduct of Attorneys at Law (2002).

Robert F. Morehead was employed in November 2007 by Norene Gerler of Pine Bluff to file for an "uncontested" divorce for her from Gary Gerler. In January 2008, she paid Mr. Morehead \$515, being his \$375 fee and the \$140 case filing fee. He told her that the uncontested, no-property, and no-children divorce could be completed in about forty-five days. He filed her Complaint on January 16, 2008. No action ensued. On December 29, 2008, the Court dismissed the case without prejudice for failure to obtain service on Mr. Gerler.

A grievance was filed with the Office of Professional Conduct (OPC) on January 5, 2009. On January 27, 2009, OPC wrote Mr. Morehead asking for a status report on the Gerler case. On February 12, 2009, Mr. Morehead filed a new divorce complaint for Ms. Gerler and sent

necessary waiver documents to Mr. Gerler in Missouri. On February 3, 2009, Mr. Morehead responded to OPC, writing that the Gerler case “fell through the cracks,” that he personally paid the refiling fee and was prepared to refund her fees to Ms. Gerler.

Ms. Gerler and Mr. Morehead went to court on March 24, 2009, for the “final” hearing and problems ensued there which are reported in the transcript of the proceeding. A final decree was approved and filed later that same day after a second hearing. On April 10, 2009, Mr. Morehead finally mailed Mr. Gerler a copy of the decree. Ms. Gerler did not receive her copy of the final decree until May 4, 2009, after she had earlier gone to the Morehead office asking for a copy after she was notified that Mr. Gerler had received his copy. In her earlier visit to the Morehead office, she was told they were unable to locate a copy of her decree.

Upon consideration of the formal complaint and attached exhibits, admissions made by Mr. Morehead, the terms of the written consent, the approval of Panel A of the Committee on Professional Conduct, and the Arkansas Model Rules of Professional Conduct, the Committee on Professional Conduct finds:

1. Mr. Morehead’s conduct violated Rule 1.1 in that after filing her divorce complaint on January 16, 2008, he failed to take any action in the case, resulting in it being dismissed without prejudice on December 29, 2008, and in preparation for Ms. Gerler’s final hearing on her uncontested divorce on March 24, 2009, Mr. Morehead failed to file the required waiver from Gary Gerler or to bring it with him to the hearing, thereby forcing her hearing to be continued, all conduct constituting a lack of thoroughness and preparation reasonably necessary for the representation. Arkansas Rule 1.1 requires that a lawyer shall provide competent representation

to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.

2. Mr. Morehead's conduct violated Rule 1.3 in that from January 16, 2008, through February 12, 2009, he failed to act with reasonable diligence and promptness in representing Norene Gerler, by failing to advance her uncontested divorce and allowing it to suffer a dismissal without prejudice in December 2008, which required Mr. Morehead to refile the matter and start all over in 2009, and he filed the final decree of divorce in Norene Gerler's case on March 24, 2009, but he failed to provide her a copy until May 4, 2009, after her former husband had already received a copy by mail dated April 10, 2009, from Mr. Morehead, and after she had already made one unsuccessful trip to his office in April 2009 seeking a copy. Arkansas Rule 1.3 requires that a lawyer shall act with reasonable diligence and promptness in representing a client.

3. Mr. Morehead's conduct violated Rule 1.4(a)(3) in that he failed to respond to reasonable requests from his client Norene Gerler about the status of her divorce matter, and he failed to inform his client Norene Gerler that the divorce action he filed for her on January 16, 2008, was dismissed without prejudice on December 29, 2008, and she had to learn of that event from another source. Arkansas Rule 1.4(a)(3) requires that a lawyer shall keep the client reasonably informed about the status of the matter.

4. Mr. Morehead's conduct violated Rule 1.4(a)(4) in that he failed to promptly comply with reasonable requests for information to him from his client Norene Gerler about the status of her divorce matter during 2008. Arkansas Rule 1.4(a)(4) requires that a lawyer shall promptly comply with reasonable requests for information.

5. Mr. Morehead's conduct violated Rule 1.4(b) in that if he had advised Norene Gerler on or before January 2008 when she paid him that circumstances and situations not involving her might cause Mr. Morehead to fail to timely and effectively pursue her desired uncontested divorce for over a year, the client would have had an opportunity to consider employing other counsel to represent the client in the divorce and possibly receive the relief the client sought. Arkansas Rule 1.4(b) requires that a lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.

6. Mr. Morehead's conduct violated Rule 3.2 in that once he filed for a divorce for Norene Gerler on January 16, 2008, Mr. Morehead failed to make reasonable efforts to expedite her litigation consistent with the interests of his client, which was to obtain for her a prompt uncontested divorce. Arkansas Rule 3.2 requires that a lawyer shall make reasonable efforts to expedite litigation consistent with the interests of the client.

WHEREFORE, in accordance with the consent to discipline presented by Mr. Morehead and the Executive Director, it is the decision and order of the Arkansas Supreme Court Committee on Professional Conduct that Respondent **ROBERT F. MOREHEAD**, Arkansas Bar No. 70050, be, and hereby is, **REPRIMANDED** for his conduct in this matter, ordered to pay \$375.00 restitution to Norene Gerler, a \$450.00 fine, and \$50.00 costs. The fine, restitution, and costs totaling \$875.00 assessed herein shall be payable by cashier's check or money order payable to the "Clerk, Arkansas Supreme Court" delivered to the Office of Professional Conduct with thirty (30) days of the date this Findings and Order is filed of record with the Clerk of the Arkansas Supreme Court.

ARKANSAS SUPREME COURT COMMITTEE
ON PROFESSIONAL CONDUCT - PANEL A

By Steven Shults
Steven Shults, Chairperson, Panel A

Date November 20, 2009